

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY (TRENTON)

**IN RE: JOHNSON & JOHNSON
TALCUM POWDER PRODUCTS
MARKETING, SALES PRACTICES,
AND PRODUCTS LIABILITY LITIGATION**

**MDL No. 2738 (FLW) (LHG)
JUDGE FREDA L. WOLFSON
MAG. JUDGE LOIS H. GOODMAN**

**BRENDA ZAVISTOSKI and MICHAEL
ZAVISTOSKI, w/h,**

COMPLAINT & JURY DEMAND

Civil Action No: _____

DIRECT FILED ACTION

Plaintiff(s),

v.

**JOHNSON & JOHNSON;
-and-
JOHNSON & JOHNSON CONSUMER, INC.,
f/k/a JOHNSON & JOHNSON CONSUMER
COMPANIES, INC.;
-and-
IMERYS TALC AMERICA, INC., f/k/a
LUZENAC AMERICA, INC.;
-and-
PERSONAL CARE PRODUCTS COUNCIL,
f/k/a COSMETIC TOILETRY AND
FRAGRANCE ASSOCIATION (CFTA),**

Defendants.

Case Management Order No. 8 Matter

Austin, et al. v. Johnson & Johnson, et al.
Circuit Court of St. Louis, Missouri
Cause No: 1722-CC01309

SHORT FORM COMPLAINT AND JURY DEMAND

The Plaintiff(s) named below file(s) this *Short Form Complaint and Demand for Jury Trial* against Defendants named below by and through the undersigned counsel. Plaintiff(s) incorporate(s) by reference the allegations contained in *Plaintiffs' Master Long Form Complaint* in *In re: Talcum Powder Products Marketing, Sales Practices, and Products Liability Litigation*,

MDL No. 2738 in the United States District Court for the District of New Jersey. Plaintiff(s) file(s) this Short Form Complaint as permitted by Case Management Order No. 1 of this Court.

In addition to those causes of action contained in *Plaintiffs' Master Long Form Complaint*, where certain claims require specific pleadings and/or amendments, Plaintiff(s) shall add and include them herein.

IDENTIFICATION OF PARTIES

Identification of Plaintiff(s)

1. Name of individual injured due to the use of talcum powder product(s):

_____.

2. At the time of the filing of the specific case, Plaintiff(s) is/are a citizen of

_____.

3. Consortium Claim(s): The following individual(s) allege damages for loss of consortium: _____.

4. Survival and/or Wrongful Death Claims:

Name and residence of Decedent Plaintiff when she suffered the talcum powder product(s) related death: _____.

Plaintiff/Decedent was born on _____ and died on _____.

5. Plaintiff is filing this case in a representative capacity as the:

_____.

of the Estate of: _____, having been duly appointed

as the _____ by the Court of

6. As a result of using talcum powder products, Plaintiff/Decedent suffered personal and economic injur(ies) that are alleged to have been caused by the use of the products identified in Paragraph 16 below, but not limited to, the following:

- injury to herself
- injury to the person represented
- wrongful death
- survivorship action
- economic loss
- loss of services
- loss of consortium
- other

Identification of Defendants

7. Plaintiff(s)/Decedent/ Plaintiff(s) is/are suing the following Defendant(s) (please check all that apply)¹:

- Johnson & Johnson
- Johnson & Johnson Consumer, Inc.
- Imerys Talc America, Inc. ("Imerys Talc")
- Personal Care Products Council ("PCPC")

¹ If additional Counts and/or Counts directed to other Defendants are alleged by the specific Plaintiff(s) as to whom this *Short Form Complaint* applies, the specific facts supporting these allegations must be pleaded by the Plaintiff(s) in a manner complying with the requirements of the Federal Rules of Civil Procedure, and the Defendants against whom they are alleged must be specifically identified on a separate sheet of paper attached to this *Short Form Complaint*.

Additional Defendants:

Other(s) Defendant(s) (please specify): _____

JURISDICTION & VENUE

Jurisdiction:

8. Jurisdiction in this Short Form Complaint is based on:

- Diversity of Citizenship
- Other (The basis of any additional ground for jurisdiction must be pled in sufficient detail as required by the applicable Federal Rules of Civil Procedure).

Venue:

9. District Court(s) and Division (if any) in which venue was proper where you might have otherwise filed this Short Form Complaint absent the direct filing Order entered by this Court and to where remand could be ordered by the Judicial Panel for trial:

CASE SPECIFIC FACTS

10. Plaintiff(s) currently reside(s) in (City, State):

11. At the time of the Plaintiff's/Decedent's diagnosis with a talcum powder product(s) injury, Plaintiff/Decedent resided in (City, State):

12. The Plaintiff/Decedent was diagnosed with a talcum powder product(s) injury in (City/State): _____ on _____ (date).

13. To the best of Plaintiff's knowledge, Plaintiff/Decedent began using talcum powder product(s) on or about the following date: _____ and continued the use of talcum powder product(s) through about the following date: _____.

14. The Plaintiff/Decedent purchased talcum powder product(s) in the following (State(s)): _____.

15. Plaintiff/Decedent used the following talcum powder products:

_____ Johnson & Johnson's Baby Powder
_____ Shower to Shower

CAUSES OF ACTION

16. Plaintiff(s) hereby adopt(s) and incorporate(s) by reference the *Master Long Form Complaint and Jury Demand* as if fully set forth herein.

17. The following claims and allegations asserted in the *Master Long Form Complaint and Jury Demand* are herein adopted by reference by Plaintiff(s):

_____ Count I:	Products Liability – Strict Liability – Failure to Warn (Against Imerys Talc)
_____ Count II:	Products Liability – Strict Liability – Failure to Warn (Against the Johnson & Johnson Defendants)
_____ Count III:	Products Liability – Strict Liability – Defective Manufacturer and Design (Against Imerys Talc)
_____ Count IV:	Products Liability – Strict Liability – Defective Manufacturer and Design (Against the Johnson & Johnson Defendants)
_____ Count V:	Breach of Express Warranties (Against the Johnson & Johnson Defendants)
_____ Count VI:	Breach of Implied Warranties of Merchantability (Against the Johnson & Johnson Defendants)

_____	Count VII:	Breach of Implied Warranty of Fitness for a Particular Purpose (Against the Johnson & Johnson Defendants)
_____	Count VIII:	Negligence (Against Imerys Talc)
_____	Count IX:	Negligence (against the Johnson & Johnson Defendants)
_____	Count X:	Negligence (Against PCPC)
_____	Count XI:	Negligent Misrepresentation (Against the Johnson & Johnson Defendants)
_____	Count XII:	Fraud (Against the Johnson & Johnson Defendants)
_____	Count XIII:	Fraud (Against PCPC)
_____	Count XIV:	Violation of the State Consumer Protection Laws of the State of: _____ (Against the Johnson & Johnson Defendants).
_____	Count XV:	Fraudulent Concealment (Against Imerys Talc)
_____	Count XVI:	Fraudulent Concealment (Against the Johnson & Johnson Defendants)
_____	Count XVII:	Fraudulent Concealment (Against PCPC)
_____	Count XVIII:	Civil Conspiracy (Against All Defendants)
_____	Count XIX:	Loss of Consortium (Against All Defendants)
_____	Count XX:	Punitive Damages (Against All Defendants)
_____	Count XXI:	Discovery Rule and Tolling (Against All Defendants)
_____	Count XXII:	Wrongful Death (Against All Defendants)
_____	Count XXIII:	Survival Action (Against All Defendants)

Furthermore, Plaintiff(s) assert(s) the following additional theories and/or State Causes of Action against Defendant(s) identified in Paragraph nine (9) above. If Plaintiff(s) include(s) additional theories of recovery, to the extent they require specificity in pleadings, the specific facts and allegations supporting these theories must be pled by Plaintiff(s) in a manner complying with the requirements of the Federal Rules of Civil Procedure.

WHEREFORE, Plaintiff(s) pray(s) for relief and judgment against Defendants of compensatory damages, punitive damages, interests, costs of suit, and such further relief as the Court deems equitable and just, and as set forth in the Master Long Form Complaint as appropriate.

JURY DEMAND

Plaintiff(s) hereby demand a trial by jury as to all claims in this action.

Dated: _____

Respectfully submitted by,

/s/ Steven D. Resnick

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Steven D. Resnick Esquire

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